

# EXHIBIT 166

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
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STUDENTS FOR FAIR ADMISSIONS, INC.,  
Plaintiff,  
vs. CIVIL ACTION NO.:  
PRESIDENT AND FELLOWS OF HARVARD 1:14-cv-14176- (ADB)  
COLLEGE (HARVARD CORPORATION)

Defendants.  
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HIGHLY CONFIDENTIAL UNDER THE TERMS OF PROTECTIVE  
ORDER  
VIDEOTAPED DEPOSITION OF PETER SEBASTIAN ARCIDIACONO  
April 12, 2018  
8:29 a.m.  
Parker Poe Adams & Bernstein, LLP  
301 Fayetteville Street, Suite 1400  
Raleigh, North Carolina

Reported by: Audra M. Smith, RPR, FCRR  
Videotaped: John Roberts

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1 Q. And then there are a series of categories  
2 for which there are tips, correct?

3 A. That is correct.

4 Q. And we can agree that the handbook is  
5 explicitly using the concept of tips as you just  
6 described it to me a few minutes ago, correct?

7 A. Correct.

8 Q. Now, the list includes, if we turn to the  
9 next page, "Harvard and Radcliffe parentage."  
10 Correct?

11 A. Correct.

12 Q. That would include legacies and lineage  
13 applicants, correct?

14 A. Correct.

15 Q. It also includes athletic ability,  
16 correct?

17 A. Correct.

18 Q. And that would include what you  
19 characterize as the athletes, correct?

20 A. Correct.

21 Q. And both categories, you have excluded  
22 from your baseline model?

23 A. That is correct.

24 Q. Now, let's look at the other tips. Turn  
25 back to page 1401. Do you have it? The handbook

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1 suggests that there's a tip for outstanding and  
2 unusual intellectual ability?

3 A. Correct.

4 Q. Do you understand that to be true?

5 MR. STRAWBRIDGE: Object to the form of  
6 the question.

7 A. I understand that Harvard values those  
8 with -- who have higher intellectual ability, yes.

9 BY MR. LEE:

10 Q. Do you understand that Harvard gives a tip  
11 to those folks?

12 A. Well, a "tip," you know, of course they're  
13 going to value having those with higher test  
14 scores, those with higher accomplishments. There's  
15 no question about that.

16 Q. But you haven't eliminated them from your  
17 baseline model, correct?

18 A. Correct.

19 Q. The next category, "Unusually Appealing  
20 Personal Qualities."

21 Do you see that?

22 A. Correct. Yes.

23 Q. And it specifically refers to "An  
24 applicant's unusual effervescence, charity,  
25 maturity or strength of character in addition to

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1 academic and extracurricular accomplishment."

2 Correct?

3 A. Correct.

4 Q. And the document says there's a tip for  
5 that as well, correct?

6 A. Correct.

7 Q. And you haven't tried to eliminate -- you  
8 even haven't tried to identify the people in your  
9 pool who receive that tip, correct?

10 MR. STRAWBRIDGE: Object to the form of  
11 the question.

12 A. Well, I guess I'm not sure what you mean  
13 by that tip. So do you mean the people that got a  
14 1 on the personal rating as the people who got that  
15 tip?

16 BY MR. LEE:

17 Q. I think it's less important what I mean  
18 and more important what you mean.

19 A. I'm just trying to understand what you  
20 mean.

21 Q. If you don't understand, you should tell  
22 me. I asked you what the special procedures were  
23 that you referred to in page 69 of your report; do  
24 you remember that?

25 A. Yes.

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1 Q. You told me that the procedure you could  
2 identify is -- are the tips?

3 MR. STRAWBRIDGE: Object to the form of  
4 the question.

5 BY MR. LEE:

6 Q. Remember that?

7 A. What I told you was there were tips given  
8 for these particular groups, yes.

9 Q. And you agree with me that there are tips  
10 given for other groups, correct?

11 A. There are -- yes.

12 Q. The document says in black and white there  
13 are?

14 A. Yes, correct.

15 Q. And so you have eliminated from your  
16 baseline model some of the categories or the groups  
17 who received tips but not all, correct?

18 A. That is correct.

19 Q. And for the groups that you eliminated  
20 from your baseline, you had said in your rebuttal  
21 report at page 69, "Harvard doesn't discriminate  
22 against Asian-Americans in those categories."

23 That's what you said, correct?

24 A. Correct.

25 Q. Okay. Now, some of the other tips are for

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1 African-Americans, correct?

2 A. Correct.

3 Q. And you weren't -- you opined that this  
4 gap was significant for 2019, correct?

5 A. Correct.

6 Q. And for the period as a whole, correct?

7 A. Correct. And that's not what the errata  
8 is referring to.

9 Q. I understand. I'm just trying to get down  
10 the series of events that led to the errata. All  
11 right?

12 Now, in your rebuttal report, you defined  
13 "significant" to be statistically significant at the  
14 95 percent level, correct?

15 A. For this table, yes.

16 Q. All right. And the 95 percent level is  
17 the threshold level that you used throughout your  
18 first two reports, correct?

19 A. I mention the 90 percent level at various  
20 times, but the primary one I used was the  
21 95 percent level.

22 Q. Fair enough. You mentioned the 95 percent  
23 confidence level on occasion?

24 A. 90 percent.

25 Q. 90 percent. But 95 percent is the

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1 confidence level that you used throughout your  
2 tables in your report, correct?

3 A. For most of the tables, yes.

4 Q. All right. Now, in his rebuttal report,  
5 Dr. Card suggested that you had made an error in  
6 calculating the statistical significance in the  
7 analysis of single-race African-American, correct?

8 A. He's -- it's only for the last number.

9 Q. Right. And he pointed that out in his  
10 rebuttal report at page 81, correct?

11 A. I'd have to look up the page number, but  
12 yes, he did point it out, so --

13 Q. And he argued that you had miscalculated  
14 the statistical significance of those differences,  
15 correct?

16 A. Of the double difference, yes.

17 Q. Now, he didn't suggest that you were  
18 trying to mislead anybody, did he?

19 A. No.

20 Q. He suggested there had been an error?

21 A. Yes.

22 Q. Okay. Now, you then submitted an errata  
23 to your report, correct?

24 A. Correct.

25 Q. And in your errata, which is Exhibit 5,



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1 STATE OF NORTH CAROLINA )

2 COUNTY OF FORSYTH )

3 REPORTER'S CERTIFICATE

4 I, Audra Smith, Registered Professional Reporter in  
5 and for the above county and state, do hereby certify that the  
6 deposition of the person hereinbefore named was taken before me  
7 at the time and place hereinbefore set forth; that the witness  
8 was by me first duly sworn to testify to the truth, the whole  
9 truth and nothing but the truth; that thereupon the foregoing  
10 questions were asked and the foregoing answers made by the  
11 witness which were duly recorded by me by means of stenotype;  
12 which is reduced to written form under my direction and  
13 supervision, and that this is, to the best of my knowledge and  
14 belief, a true and correct transcript.

15 I further certify that I am neither of counsel to  
16 either party nor interested in the events of this case.

17 IN WITNESS WHEREOF, I have hereto set my hand  
18 this 16th day of April 2018.

19 Audra Smith

20  
21 

22  
23 Audra Smith, RPR, FCRR

24 Notary Number: 201329000033

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